



January 8, 2009

Richard Leopold, Director  
Iowa Department of Natural Resources  
Wallace State Office Building  
502 East 9<sup>th</sup> Street  
Des Moines, Iowa 50319-0034

**Re: Iowa Administrative Code Chapter 567-108, "Beneficial Use Determinations: Solid By-Products as Resources and Alternative Cover Material"**

Dear Director Leopold:

Plains Justice, Iowa Chapter of Physicians for Social Responsibility, Environment Iowa, Community Energy Solutions, Iowa Environmental Council, Union of Concerned Scientists, and Iowa Citizens for Community Improvement write to request that the Iowa Department of Natural Resources (DNR) rethink its decision to postpone the rulemaking process for Iowa Administrative Code Chapter 567-108. We respectfully request that DNR take the following action before making a decision about the future rulemaking process:

1. Expand the stakeholder process to include, at minimum, representatives of public health and environmental organizations and agencies;
2. Provide statewide public notice of the July 2008 Chapter 567-108 revisions;
3. Take additional public comment on the July 2008 Chapter 567-108 revisions; and
4. Hold public hearings in counties with quarry or mine coal combustion waste fill sites.

A significant proportion of coal combustion waste disposed of annually in Iowa is currently being dumped in unlined quarries that pose a threat of groundwater contamination demonstrated by contamination at similar sites in other states as well as elevated contaminant levels in monitoring wells at coal combustion waste sanitary landfill sites in Iowa (*see Plains*

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Justice, *Iowa Coal Combustion Waste Disposal* (November 2007)). The unlined sites include: Lee Crawford Quarry (Linn County), Waterloo South Quarry (Black Hawk County), Boone County Quarry, and Linwood Mining site (Scott County). These sites are adjacent to residential areas and rural water sources, and are operating without groundwater monitoring and without financial guarantees in case of contamination. At least one site is operating with a variance to allow disposal of waste with heavy metal concentrations in excess of state soil quality standards. Perhaps because of its lax regulation of this waste stream, Iowa is the recipient of coal combustion waste from several neighboring states (including Wisconsin, which tightened its regulations after contamination incidents) and as far away as Indiana. The July 2008 Revision of Chapter 567-108 does not allow coal combustion waste to be disposed in quarry fill sites without meeting the requirements of IAC Chapter 567-103, "Sanitary Landfills: Coal Combustion Residue," which was slated for revision and amendment after the Chapter 567-108 changes were finalized. This is a necessary but insufficient improvement in Iowa's coal combustion waste disposal regulation.

It is imperative that Iowans be allowed to comment on DNR's proposal to suspend the revision of Chapter 567-108. Coal combustion waste is currently disposed of throughout the state without monitoring and recordkeeping requirements. By re-releasing the July 2008 Revision for a statewide public hearing and comment period before making a decision regarding the Chapter 567-108 rulemaking, DNR can ensure that "human health, safety and the environment" are considered along with industry concerns about cost. Before indefinitely shelving the Chapter 567-108 rulemaking process in favor of a wholly insufficient voluntary monitoring phase, please notify Iowans and give us a chance to be heard.

Thank you for your consideration.

Sincerely,



Nicole Shalla  
Staff Attorney

On Behalf of: Plains Justice, Iowa Chapter of Physicians for Social Responsibility, Environment Iowa, Community Energy Solutions, Iowa Environmental Council, Union of Concerned Scientists, and Iowa Citizens for Community Improvement.

Cc: Governor Chet Culver  
Chad Stobbe  
Henry Marquard, Chair, Environmental Protection Commission

Thomas Newton, Director, Iowa Department of Public Health  
Thomas O'Rourke, Director, Black Hawk County Health Department  
Luke Nelson, Boone County Health Department  
Anthony Daugherty, Linn County Public Health Department  
Larry Barker, Director, Scott County Health Department

Representative Deborah Barry  
Representative Swati Dandekar  
Representative Ro Foege  
Representative Elesha Gayman  
Representative Doris Kelley  
Representative Bob Kressig  
Representative Jim Lykam  
Representative Linda Miller  
Representative Donovan Olson  
Representative Tyler Olson  
Representative Kraig Paulsen  
Representative Art Staed  
Representative Dick Taylor  
Representative Todd Taylor  
Representative Jamie Van Fossen  
Representative Tami Wiencek  
Representative Cindy Winckler

Senator Jerry Behn  
Senator Jeff Danielson  
Senator William A. Dotzler, Jr.  
Senator David Hartsuch  
Senator Rob Hogg  
Senator Wally E. Horn  
Senator Mary Lundby  
Senator Dr. Joe M. Seng  
Senator Frank Wood